

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KATHERINE SZMIGIEL,

Plaintiff,

v.

THE KROGER COMPANY, KATHY GRANT,  
and MARIE TOMOSHUNAS, jointly and  
severally,

Defendants.

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Case No. 10-14737

Honorable John Corbett O'Meara

**ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION**

Plaintiff filed this action against The Kroger Company, her former employer, and two co-workers, alleging the following causes of action: Count I, wrongful discharge/breach of contract; Count II, tortious interference with business relationship and expectancy; Count III defamation; Count IV, self-compelled defamation; Count V, interference with ERISA benefits under 29 U.S.C. § 1140; and Count VI, disability discrimination under Michigan's Persons with Disabilities Civil Rights Act, Mich. Comp. Laws Ann. §§ 37.1101 *et seq.* Defendants filed timely notice of removal.

On December 21, 2010, this court issued an order retaining jurisdiction over the federal claims in Counts I, II, and V and remanding the state claims alleged in Counts III, IV, and VI. Plaintiff filed a motion for reconsideration December 23, 2010. Pursuant to Local Rule 7.1(g)(2), no response was filed and no oral argument was heard.

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

Local Rule 7.1(g)(3).

In this case the court finds no palpable defect. Although Plaintiff's state claims for defamation and disability discrimination under Michigan law may be related to her federal claims, the claims are not inextricably linked. Moreover, litigating Plaintiff's causes of action in federal court and in state court will not cause undue hardship on the parties, as they will be able to use their discovery product in both courts. Therefore, it is hereby **ORDERED** that Plaintiffs' motion for reconsideration is **DENIED**.

s/John Corbett O'Meara  
United States District Judge

Date: January 13, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, January 13, 2011, using the ECF system.

s/William Barkholz  
Case Manager